IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13298 of 2016

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Wakil Chaudhary, Son of late Indradeo Choudhary, Resident of Jail Press Colony, Gaya P.S -Rampur, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary -cum- Commissioner, Department of Finance, Old Secretariat, Bihar, Patna.
3. The Deputy Secretary, Department of Finance, Old Secretariat, Bihar, Patna.
4. The Under Secretary -cum- Director (Press), Government of Bihar, Patna.
5. The Officer Special Duty -cum- Director (Press), Department of Finance, Bihar, Patna.
6. The Superintendent, Press and Forms, Gaya.
7. The Deputy Superintendent, Press and Forms, Gaya.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Ajey Kumar
For the Respondent/s : Mr. Anuj Kumar, AC to GP-24

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 07-04-2017

Heard Mr. Ajey Kumar, learned counsel appearing for the petitioner and Mr. Anuj Kumar, learned Assisting Counsel to Government Pleader No.24 for the State.

The petitioner is aggrieved by the order dated 19.7.2016 passed by the Under Secretary, Finance Department, Government of Bihar, Patna whereby the petitioner has been put under suspension in exercise of powers vested under rule 9(1) (a) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as the 'Disciplinary Rules').

Facts on record would demonstrate that a suspension order was earlier passed by the Superintendent, Press and Forms, Gaya on 1.8.2014 following an audit objection raised and on the alleged failure of the petitioner to account for a sum of Rs.68087.55, a copy of which is placed at Annexure-1. This order was subsequently recalled, inter alia, on grounds that since the Superintendent at the relevant time was holding charge by way of an ad-hoc arrangement, he possessed no jurisdiction to pass suspension order.

In the meanwhile charges were drawn against the petitioner on 24.10.2014 vide Annexure-3 by the Officer On Special Duty –cum- Director, Government Press, Finance Department, Bihar, Patna but for the reasons not known, it was not pursued. Perhaps the answer lies in the order of the Officer On Special Duty cum Director, Press and Forms, Finance Department, Government of Bihar bearing Memo No.2090 dated 2.3.2015, a copy of which is placed at Annexure-A to the counter affidavit, whereby in reference to a notification no.7521 dated 23.7.2013 it was held that the Incharge Superintendent did not have a disciplinary control over the petitioner and thus until a full time Superintendent is posted, who is the Disciplinary Authority of the petitioner, the power would vest in the Joint Secretary, Finance Department and for the present in the Officer On Special Duty, Finance Department cum Director, Press and Forms, who would be the Disciplinary Authority of the petitioner.

It is in this view of the matter that though the reply filed by the petitioner was forwarded to the Incharge Superintendent for his comments but on the other side a fresh suspension order followed bearing Memo No.5639 dated 19.7.2016, issued under the order of the Under Secretary, Finance Department, Government of Bihar which has the approval of the Officer on Special Duty, Finance Department, Government of Bihar. By a subsequent order passed on 22.7.2016 vide Annexure-8, the charge memo dated 24.10.2014 present at Annexure-3 has again been served on the petitioner for his reply.

The grievance of the petitioner is that although the petitioner has filed his reply which is acknowledged in Annexure-A to the counter affidavit but neither the enquiry has progressed nor the suspension order has been interfered with and even the subsistence allowance is not being paid to him.

Having heard learned counsel for the parties and considering the allegation facing the petitioner of financial irregularity, for the present, the order of suspension would not call for any interference but I, nonetheless deem it proper to direct the Disciplinary Authority who at present would be the respondent no.5

i.e. the Officer On Special Duty –cum- Director, Press and Forms, Department of Finance, Government of Bihar to take expeditious step for concluding the disciplinary proceeding within a maximum period of three months from the date of receipt/production of a copy of this order.

In so far as the payment of subsistence allowance is concerned, the Officer on Special Duty would pass orders for its payment within one week from the receipt of the present order.

It is also taken on record that in case the disciplinary proceeding in question is not concluded within the period stipulated for reasons not attributable to the petitioner, then the Disciplinary Authority would be obliged to consider the prayer of the petitioner for revocation of his suspension order and pass appropriate order in accordance with law within four weeks of the expiry of the stipulated period.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12-04-2017
Transmission Date	NA